

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Dea'Shawn Harrison,
Plaintiff,
v.
James Adam, III; Terry Woods, Jr.; Julius
Wayne Bean,
Defendants.

Case No. 2:23-cv-00327-RMG

ORDER AND OPINION

Before the Court is the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that Plaintiff’s case be dismissed without prejudice, without leave to amend, and without issuance and service of process. (Dkt. No. 51). The R&R has been returned three times as undeliverable to the Charleston Clerk’s Office, with one of returned envelopes marked as “Refused.” (Dkt. Nos. 52, 57, 58). For the reasons set forth below, the Court adopts the R&R as the Order of the Court.

I. Background

At the time of filing this action, Plaintiff was a pretrial detainee at the Dorchester County Detention Center (DCDC). He alleges various claims against Defendants, specifically that Defendant Woods, who was also detained at the DCDC, received a letter intended for Plaintiff and shared its contents with multiple detainees, thus violating Plaintiff’s First, Fifth and Fourteenth Amendment rights by taking his property without permission or just compensation; that Defendant Adams, a public defender, violated Plaintiff’s rights by representing in his criminal proceedings without his consent; and that Defendant Bean, a DCDC detention officer, denied him access to a notary public and the ability to make copies of his mail. (Dkt. No. 29 at 6, 10).

II. Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the Report for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

III. Discussion

Here, the Charleston Clerk’s Office has made three unsuccessful attempts to deliver the R&R via mail to the Plaintiff. Plaintiff has not filed objections to the R&R. The Court thus reviews the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. Finding none, the Court adopts the R&R as the Order of the Court. The Magistrate Judge ably determined that Plaintiff failed to state a valid cause of action under Section 1983 against either Defendant Woods or Defendant Adams because neither is a state actor. (Dkt. No. 51 at 4-6). Further, the Magistrate Judge found that Plaintiff failed to allege actual injury stemming from Defendant Bean’s alleged refusal to grant Plaintiff access to a public notary and obtain copies of letters for Plaintiff to have notarized. (*Id.* at 9). In addition, the Magistrate Judge recommends Plaintiff’s case be dismissed in accordance with Federal Rule of Civil Procedure 41

because Plaintiff has failed to bring his case into proper form despite multiple court orders instructing him to do so. (Dkt. Nos. 5, 31, 43).

IV. Conclusion

The Court **ADOPTS** the R&R as the Order of the Court and **DISMISSES** Plaintiff's case without prejudice, without leave to amend, and without issuance and service of process.

AND IT IS SO ORDERED.

s/Richard M. Gergel
Richard Mark Gergel
United States District Judge

October 15, 2024
Charleston, South Carolina